



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 2589-00

22 September 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 13 September 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 14 April 1982 for four years at age 21. The record reflects that while in recruit training, you acknowledged you understood the Navy's drug policy and the consequences of using illegal drugs. You were advanced to RMSN (E-3) on 16 April 1983 and served without incident until 26 July 1984 when you received nonjudicial punishment (NJP) for use of marijuana. Punishment imposed consisted of a reduction in rate to RMSA (E-2) and 45 days of restriction and extra duty. Thereafter, you were counseled regarding your use of a controlled substance and warned that further misconduct could result in separation under other than honorable conditions.

On 7 November 1984 you received a second NJP for a three day period of UA and were awarded 30 days of correctional custody. On the same day, medical officer determined that you were not drug dependent. You were then notified that separation processing was being initiated by reason of misconduct due to

drug abuse and a pattern of misconduct. You were advised of your procedural rights and informed that if discharge was approved, it could be under other than honorable conditions. You declined to consult with legal counsel or submit a statement in your own behalf, and waived your right to an administrative discharge board (ADB).

On 19 November 1984 the commanding officer (CO) recommended discharge under other than honorable conditions. In his recommendation, the CO stated that two follow-up command assist urinalysis screens tested positive for marijuana and cocaine and indicated you had no desire to discontinue your illegal drug usage. On 28 November 1984 the Chief of Naval Personnel directed separation under other than honorable conditions by reason of misconduct due to drug abuse. You were so discharged on 5 December 1984.

In its review of your application, the Board conducted a careful search of your service record for any mitigating factors which might warrant recharacterization of your discharge. However, no justification for such a change could be found. The Board noted that despite receiving NJP and counseling for use of illegal drugs, your usage continued. Therefore, you were well aware of the consequences of your actions. The Board also noted the aggravating factor that you waived an ADB, the one opportunity you had to show why you should be retained or discharged under honorable conditions. You have provided neither probative evidence nor a persuasive argument in support of your application. The Board concluded that the discharge was proper and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director